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TRIMAS CORPORATION  
8

9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
11

12 ALISU INVESTMENTS, LTD. and  
KARGO GROUP GP, LLC,  
13

14 Plaintiffs,

15 v.

16 TRIMAS CORPORATION dba NI  
INDUSTRIES, INC., and DOES 1–10  
17 inclusive,

18 Defendants.  
19  
20  
21

Case No.: 2:16-cv-00686 GHK (PJWx)

**DEFENDANT TRIMAS  
CORPORATION'S  
COUNTERCLAIMS AGAINST  
PLAINTIFFS FOR:**

- 1) **CONTRIBUTION UNDER  
CERCLA; and**
- 2) **DECLARATORY RELIEF**

Second Amended Complaint Filed:  
April 12, 2016  
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Pursuant to Fed. R. Civ. P. 13, Defendant and counterclaimant TriMas Corporation (“Counter-Claimant”), by and through the undersigned attorneys, asserts the following counterclaims against Plaintiffs (“Counter-Defendants”).

**NATURE OF THE ACTION, PARTIES, JURISDICTION, AND VENUE**

1. These are counterclaims brought by Counter-Claimant against Counter-Defendants for contribution, declaratory judgment, and other relief pursuant to 42 U.S.C. § 9613(f)(1) and 42 U.S.C. § 9613(g)(2) of the Federal Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) and 28 U.S.C. § 2201.

2. Counter-Defendants are the Plaintiffs in this action as identified in paragraph 1 of the Second Amended Complaint.

3. Counter-Claimant is a Defendant in this action and a corporation duly organized and existing under the laws of the State of Delaware with its principal place of business located at 39400 Woodward Avenue, Suite 130, Bloomfield Hills, Michigan 48304.

4. This Court has jurisdiction over this action pursuant to 42 U.S.C. § 9613(b) and 28 U.S.C. § 1331.

5. Venue is proper in this district pursuant to 42 U.S.C. § 9613(b) and 28 U.S.C. §§ 1391(b) and (c).

**FIRST CLAIM FOR RELIEF**

**(Contribution under CERCLA)**

6. Counter-Claimant incorporates by reference, as if fully set forth herein, paragraphs 1 through 5 of this Counterclaim.

7. Counter-Defendants have commenced this action seeking cost recovery and declaratory judgment against Counter-Claimant, under Section 107(a) of CERCLA, 42 U.S.C. §§ 9601–9675.

8. As alleged in the Second Amended Complaint, Counter-Defendants are the owners of 4901 S. Boyle Avenue, Vernon, California 90058 (the

1 “Property”). Counter-Defendants have allegedly incurred costs to investigate and  
 2 remediate the Property and seek cost recovery from Counter-Claimant in this  
 3 action. *See* Second Amended Complaint ¶¶ 19–25.

4 9. Pursuant to 42 U.S.C. § 9613(f)(1), any person may seek contribution  
 5 from any other person who is liable or potentially liable under Section 9607(a) of  
 6 CERCLA during or following any civil action under Section 9606 or Section  
 7 9607(a) of CERCLA. In resolving contribution claims, the Court may allocate  
 8 response costs among liable parties using such equitable factors as the Court  
 9 determines are appropriate.

10 10. Counter-Defendants and Counter-Claimant are “persons” within the  
 11 meaning of 42 U.S.C. §§ 9601(21) and 9613(f)(1).

12 11. This is a civil action in which Counter-Defendants have alleged claims  
 13 against Counter-Claimant under CERCLA Section 107(a) and, therefore, Counter-  
 14 Claimant is entitled to seek contribution under 42 U.S.C. § 9613(f)(1).

15 12. If liability is established against Counter-Claimant, which is expressly  
 16 denied, the Court should allocate the response costs sought in Counter-Defendants’  
 17 CERCLA Section 107(a) claim among liable parties using such equitable factors as  
 18 the Court determines are appropriate, under 42 U.S.C. § 9613(f)(1).

## 19 **SECOND CLAIM FOR RELIEF**

### 20 **(Declaratory Relief)**

21 13. Counter-Claimant incorporates by reference, as if fully set forth herein,  
 22 paragraphs 1 through 12 of this Counterclaim.

23 14. Counter-Defendants have alleged a claim against Counter-Claimant  
 24 under CERCLA section 107(a); therefore, CERCLA section 113, 42 U.S.C. §  
 25 9613(f)(1), authorizes Counter-Claimant to seek declaratory relief in this action  
 26 against all Counter-Defendants.

27 15. If liability is established, the Court should grant appropriate  
 28 declaratory relief under 42 U.S.C. § 9613(g)(2) and 28 U.S.C. § 2201.

**PRAYER FOR RELIEF**

Wherefore, Defendant respectfully prays this Court find that:

1. For contribution under CERCLA for past and future response costs, including Counter-Claimant's costs in this action to investigate and remediate the alleged contamination;

2. For a judicial declaration under CERCLA that Counter-Defendants are liable for their equitable share of all present and future response costs including Counter-Claimant's costs in this action to investigate and remediate the alleged contamination;

3. For costs of suit; and

4. For such other and further relief as the Court may deem just and proper.

Dated: April 26, 2016

ELIZABETH M. WEAVER  
H. JOSEPH DRAPALSKI III  
NORTON ROSE FULBRIGHT US LLP

By /s/ Elizabeth M. Weaver  
ELIZABETH M WEAVER  
Attorneys for Defendant  
TRIMAS CORPORATION

**PROOF OF SERVICE**

I, Elizabeth M. Weaver, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 South Flower Street, Forty-First Floor, Los Angeles, California 90071.

On April 26, 2016, I electronically filed the attached document(s):  
***DEFENDANT TRIMAS CORPORATION'S COUNTERCLAIMS AGAINST PLAINTIFFS*** the Clerk of the court using the CM/ECF system which will then send a notification of such filing to the following:

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***Attorney for Plaintiffs***

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on April 26, 2016, at Los Angeles, California.

/s/ Elizabeth M. Weaver

ELIZABETH M. WEAVER